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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8                   GURDEEP BOPARAI,  
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10                  Plaintiff,

11                 v.  
12                 THE KROGER COMPANY et al.,  
13  
14                  Defendants.

15                   CASE NO. 2:24-cv-02045-JNW  
16                   ORDER TO SHOW CAUSE

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18                 Pro se Plaintiff Gurdeep Boparai pursues this action against Defendant The  
19                 Kroger Company (Kroger) and two of its agents in forma pauperis (IFP). Dkt. No. 3.  
20                 When a plaintiff proceeds in forma pauperis, the court must dismiss the action if  
21                 the court determines the action is frivolous or malicious, fails to state a claim on  
22                 which relief may be granted, or seeks monetary relief against a defendant who is  
23                 immune from such relief. 28 U.S.C. § 1915(e)(2)(B). When reviewing complaints  
               under § 1915(e)(2)(B), courts necessarily consider *only* the operative complaint. *See*  
               *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011) (holding that an  
               amended complaint supersedes the original and renders the original of no legal  
               effect).

Under the Federal Rules of Civil Procedure, “[p]leadings must be construed so as to do justice.” Fed. R. Civ. P. 8(e). Thus, a “document filed pro se is to be liberally construed and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citations omitted). Courts are not to “dismiss a pro se complaint without leave to amend unless ‘it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.’” *Rosati v. Igbinoso*, 791 F.3d 1037, 1039 (9th Cir. 2015) (citing *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (quoting *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam))). But even so, the duties imposed on the Court by § 1915(e) are unwavering, and when an IFP plaintiff fails to state a claim on which relief may be granted, the action must be dismissed. Likewise, the Federal Rules require a complaint to offer: (1) a short and plain statement of the grounds for the court’s jurisdiction; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought. Fed. R. Civ. P. 8.

Boparai asserts that his employer, Kroger, and its agents defamed him and discriminated against him on the basis of disability and race. *See Dkt. No. 4 at 5*. Boparai does not recall the surnames of the two Kroger agents but provides their first names—Linda and Holy—as well as their positions within the company. The complaint, however, does not specify Boparai’s causes of action, nor does it state whether his claims are based on federal or state law. *See id.* As Boparai does not allege federal question jurisdiction, *see id.* at 3, the Court assumes that his potential claims arise under Washington law. But ultimately, having read through the

1 factual allegations, *see id.* at 5–7, the Court struggles to understand the basis of  
2 Boparai’s claims.

3 Additionally, while Boparai alleges that this Court has subject-matter  
4 jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction), the complaint’s factual  
5 allegations defeat diversity jurisdiction. Diversity jurisdiction exists when the  
6 matter in controversy exceeds \$75,000 and is between citizens of different states. 28  
7 U.S.C. § 1332(a). Here, Boparai alleges that he, Linda, and Holy are each  
8 Washington residents who live and work in Washington. Thus, diversity jurisdiction  
9 doesn’t apply.

10 The Court finds that the operative complaint, Dkt. No. 4, fails to state a claim  
11 upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B).

12 Accordingly, the Court ORDERS:

- 13 • Boparai may file an amended complaint that states a claim on which  
14 relief may be granted by January 31, 2025. Failure to do so by the  
15 deadline will result in dismissal of this action under  
16 28 U.S.C. § 1915(e)(2)(B), without prejudice.
- 17 • If filed, the amended complaint will serve as a complete substitute for  
18 the current complaint. Thus, any amended complaint must not  
19 incorporate the original complaint by reference. Any amended  
20 complaint must clearly identify the legal claims and the facts that  
21 support each claim.

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2 Dated this 27th day of December, 2024.  
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Jamal N. Whitehead  
United States District Judge